



## CITY OF HAYWARD AGENDA REPORT

Meeting Date 11/21/02

Agenda Item 1

**TO:** Planning Commission

**FROM:** Arlynn J. Camire, AICP, Associate Planner

**SUBJECT:** Use Permit No. PL-2002-0122 and Variance No. PL-2002-0291: Mark Wagter & Nitsa Zuppas (Applicants/Owners) – Request to Allow Live/Work Multi-Family Dwellings on the First Floor and a Variance to Allow Vehicles to Back Out (Forward Motion Required) of the Garage Onto “B” Street

*The Property Is Located at 628 B Street, between Grand Street and BART, in the Central City-Commercial/“B” Street Special Design Streetcar (CC-C-SD-1) District*

### RECOMMENDATION:

It is recommended that the Planning Commission:

1. Find that the project is Categorically Exempt from the guidelines of the California Environmental Quality Act, Section 15303; Class 3, Construction or Conversion of Small Structures;
2. Approve the use permit application subject to the attached findings and conditions of approval.
3. Deny the variance application subject to the attached findings.

### DISCUSSION:

#### Setting

The 9,024-square-foot parcel contains two warehouse structures once operated as Rose Upholstery. The parcel is located on the north side of “B” Street, between Grand Street and BART and Union Pacific Railroad right-of-ways. The site is adjacent to a vacant lot and two single-family homes to the west. The storage/trash area and the parking lot of El Tapatio Mexican Market is located to the north, Union Pacific Railroad and BART tracks are to the east, and Hayward BART Station and parking lot are to the south, all in the *Central City-Commercial (CC-C) District*.

## Project Description

The owner proposes to convert two warehouse buildings into four live/work condominiums. The rear 3,900-square-foot reinforced concrete building would be converted into two, 1,950-square-foot, units to be constructed first. The 5,400-square-foot wood-framed building fronting on "B" Street is to be converted into a 2,200-square-foot unit, a 2,750-square-foot unit, and a 450-square-foot two-car garage that would provide parking to these units as Phase 2. All units would include a kitchen, laundry, bathroom and work area on the ground floor. The second floors will include bedrooms, a bathroom, and integrated work and living areas. It is planned that the conversion of Phase 2 will begin while conversion of Phase 1 is ending.

The project requires a conditional use permit to allow multiple-family dwelling units on the first floor in the *CC-C Subdistrict*. Since the project is being constructed to residential building code requirements, commercial uses are limited to those allowed as home occupations. When the City adopts a Live/Work Ordinance, the applicants intend to apply to operate the project as such. At this time, commercial uses allowed within the *CC-C Subdistrict* can be considered.

A variance is required to allow backing of vehicles into "B" Street because vehicles exiting any multi-family development are required to enter the street forward. If the variance is not approved, staff recommends that the area that is proposed to be converted to a garage be converted to commercial office or retail space or incorporated as part of the living areas of the proposed dwelling units. If the variance is approved, staff recommends that the garage doors be relocated to avoid possible interference with an existing Sycamore tree.

## Design

The "B" *Street Special Design Streetcar District* (SD-1) requires materials to be sympathetic to original Victorian, Colonial Revival, or Craftsman styles. The prominent features that are common in this neighborhood are porches, brackets and cornices. Therefore, the buildings should include these basic design elements. And the proposed modifications to the buildings are consistent with the special design overlay district and the Design Guidelines.

The building fronting "B" Street has a false façade obscuring a gable roof. The rear building has a flat roof that will be converted to a gable roof. The proposed roofs are gray metal standing seam with skylights. Standing metal seem roofs can be found in the immediate area on City Hall and Albertsons. Metal roofs were common for warehouse and commercial buildings during the Victorian and Craftsman eras. The façade will be augmented with cornice caps and both buildings will have Craftsman elements such as decorative brackets. All exterior walls of both buildings will be finished with a variety of earthtone green stucco replacing a mixture of stucco, corrugated metal and painted concrete block.

The windows will be replaced with larger, double paned windows. Additional windows will be installed on all sides of the front building and on the courtyard side of the building in the rear of the site. Both buildings will have solid glass block windows on the track side and the rear building will have glass block insets on the west side adjacent to the residential lot. The windows will be inset about 7 inches and will have thick windowsills and lintels above the

windows, entry door and garage doors on the “B” Street frontage. The widow trim color is off-white. The “B” Street façade is designed to be symmetrically balanced with raised off-white score lines, as is the building in the rear. In addition, the “B” Street façade will have a half-door entrance gate, a trellis and driveway gate that have a metal grid pattern that is designed to mimic the widow design on the “B” Street façade (See Plans:A-17). The words “Hayward Lofts” will appear in metal block capital letters on the front of the building just above the window located on the west side of the building.

The front unit can be entered from a front door on “B” Street and the unit located in the rear of the “B” Street building can be entered from the patio located adjacent to the courtyard. The “B” Street units will share a common two-car garage. Both units can be accessed from the interior of the garage. The metal door entries to the units in the rear building are protected by covered stoops.

Decorative lighting will be provided in the multi-purpose area, in the driveway and above all entries. The lighting fixtures and decorative elements of the all the front entries are to match and be compatible with the architecture styles in the neighborhood.

Staff has worked with the applicants to achieve a design that is reflective of the character of the live-work environment that includes the most prominent design elements of the neighborhood. The proposed design meets the basic requirements of the Design Guidelines and the Hayward Downtown Historic Rehabilitation District. However, staff is of the opinion the appearance of the building would be improved if the “B” Street façade were further embellished. Staff recommends the addition of a metal entry cover with brackets over the front entry of the “B” Street building which is consistent with the design of the entry covers on the rear building and gives the appearance of a porch. Also recommended are elements that would further break up the flatness of the front façade. These elements include the expansion of the cornice width, the addition of brackets below the cornice, augmented raised stucco or tile elements framing the windows and entry.

The project was informally reviewed by the Citizen’s Advisory Board (CAB), which disagrees with staff that the building façade should be further embellished. The CAB recommends approval of the project as proposed with the minor modification of the substitution of wood balconies in the rear of the front building to metal with metal mesh sides to match the gate. The CAB does not recommend the addition of an entry awning on the “B” Street façade because they feel it detracts from the historic industrial look of the building, which was constructed in 1945. They did not specifically address the proposed garages on “B” Street.

A 2,290-square-foot asphalt courtyard separates the buildings and is accessible from a driveway located on the west side of the site. The asphalt in the courtyard will be replaced with decorative concrete. A 10-foot masonry wall will replace the chain link fence between the buildings along the railroad tracks. Climbing vines and shrubs will be planted on the outside of the wall. The wall will buffer ground level noise from the train. However, the wall will not screen engine noise since the train height can reach 19 feet, 6-inches or noise from the raised BART track. A chainlink fence on the west side of the property will be replaced with a 6-foot redwood fence that

will decrease to 3 feet in height toward “B” Street as required by the SD-1 District. Mature trees are located on the west property line adjacent to the courtyard. These trees will remain.

### Noise

Because the project is adjacent to the Union Pacific railroad and BART tracts, a noise and vibration study was completed. As a condition of approval, the noise mitigation measures of the study are required to be implemented. In addition, the applicants have proposed that all windows be replaced with double paned windows with the highest sound transmission control (STC) rating available which will reduce the ambient interior noise to 45dBA.

### Open Space

The Downtown Hayward Design Plan allows the requirement for open space to be waived for remodeling or conversion of existing buildings. The project provides a 2,290-square-foot decorative concrete common courtyard/multi-purpose area that exceeds the required 300 square feet of group open space. In addition, the rear unit in the front building has a 168-square-foot entrance patio with a 6-foot wall to assure the privacy of the rear unit of the “B” Street building. This unit also has a 198-square-foot second floor covered wood deck. This is the only unit with private space. However, the open space cannot be considered to be usable because of the noise from the nearby railroad and BART.

Staff recommends that the Planning Commission waive the requirement for private and group open space as allowed for conversions of existing buildings pursuant to the Zoning Ordinance. Cannery Park is located four blocks westerly on “B” Street and Library Plaza is located 3 blocks southeast of the site. In addition, the applicant is required to pay park in-lieu fees prior to the issuance of building permits to augment existing parks.

### Parking and Transportation

Additional parking is not required to be provided when a building is remodeled in the CC-C District. However, the applicant has provided two covered parking spaces to be used by the front units and the multi-purpose courtyard can be used as parking with availability to be supervised by the residents. In addition, the chainlink gate located at the rear of the front building will be removed and replaced with a 4-foot decorative iron security gate located 10 feet behind the front property line to secure vehicles parked in the courtyard or to keep them available when used as group open space. However, due to potential traffic hazards to pedestrians and vehicles, staff strongly objects to vehicles regarding the backing over the sidewalk out onto “B” Street and recommends that the area designated for a garage be used for a small commercial storefront, office space or incorporated into the live/work area.

The project is located across the street from Hayward BART and Downtown Hayward Transit Center. Therefore, the opportunities to utilize public transportation are abundant. In addition, it is walking distance from shopping, banking and other services.

Conformance to the General Policies Plan, Zoning Ordinance, the Downtown Hayward Design Plan and the Mark's Historic Rehabilitation District

The General Policies Plan Designation is *Retail and Office Commercial* (ROC) and the zoning designation is *Central City-Commercial* (CC-C), "*B*" *Street Special Design Streetcar District* (SD-1). The conversion of two warehouse/commercial buildings to multi-family live/work units is consistent with both the Zoning Ordinance and the General Policies Plan designation.

The project is consistent with policies and development standards of the Downtown Hayward Design Plan, which recognizes this property to be developed with uses including retail, office and multi-family residential. The Downtown Hayward Design Plan permits up to 17 units per acre that allows one unit for each 2567 square feet of parcel area. This would allow this site to be developed with 4 units. As proposed, the density is not exceeded. The buildings sit on the property line, which is permitted. The height limit of 55 feet will not be exceeded. In addition, the project complies with the guidelines that govern rehabilitation within the Mark's Historic Rehabilitation District which are specified in the Hayward Downtown Historic Rehabilitation District Commercial Design Manual. The guidelines require the maintenance of the line of the front building wall at the sidewalk, the colors used are compatible, decorative embellishment such as cornices have been provided. Furthermore, the upper facades have more wall than window area.

Schools

The development will not generate a number of students that cannot be served by existing facilities. Using the Student Generation Factors for multi-family residences, as provided by the Hayward Unified School District, it is projected that this 4-unit development will generate approximately 1 student that can be accommodated by Burbank Elementary, Winton Middle School or Hayward High School. In addition, school fees will be collected prior to the issuance of a building permit. Typically, there are fewer children associated with the live/work living style, as privacy is often an issue

**ENVIRONMENTAL REVIEW:**

It has been determined that this project is categorically exempt from the guidelines of the California Environmental Quality Act, pursuant to Section 15303; (Class 3- Construction or Conversion of Small Structures.)

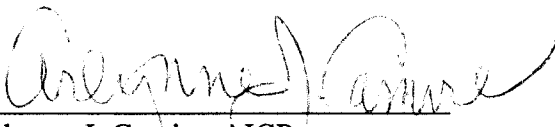
**PUBLIC NOTICE:**

On November 11, 2002, a notice was mailed to every property owner and occupant within 300 feet of the subject site, as noted on the latest assessor's records. Notice was also provided to the Burbank Neighborhood Task Force and the Union Pacific Railroad. No responses were received from the notice.

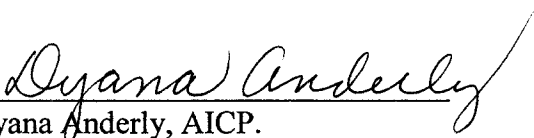
## CONCLUSION

The proposed project is consistent with adopted land use policies of the General Policies Plan, the Downtown Hayward Design Plan and the Mark's Historic Rehabilitation District. The project also meets all applicable requirements of the Zoning Ordinance and other applicable ordinances. While the project is located in the "B" Street Special Design Streetcar District, it does not follow the architectural styles of Victorian, Colonial Revival nor Craftsman because it is a conversion of existing warehouse buildings. In addition, the project provides an opportunity for home ownership of transit-oriented housing. Staff recommends that the Conditional Use Permit be approved as conditioned. However, due to the introduction of a potential traffic hazard, staff does not recommend approval of the variance that would allow vehicles to back over the sidewalk onto "B" Street.

Prepared by:

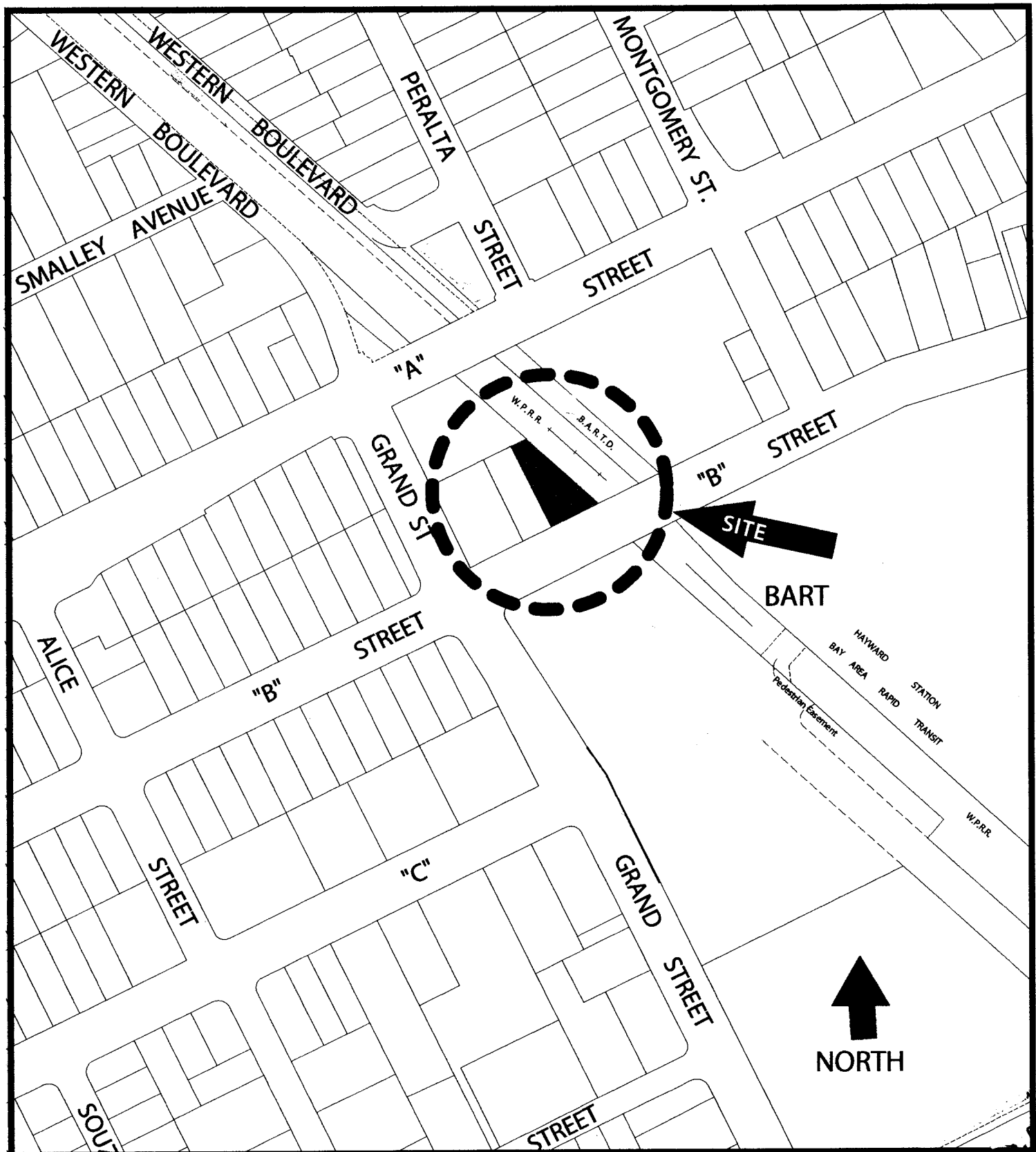
  
Arlynne J. Camire, AICP  
Associate Planner

Recommended by:

  
Dyana Anderly, AICP.  
Planning Manager

Attachments:

- A. Area Map
- B. Findings for Approval of Use Permit
- C. Findings for Denial of Variance
- D. Conditions of Approval of Use Permit Plans



PL-2002-0122 UP  
Address: 628 B Street  
Applicant: Mark Wagter  
Owner: Mark Wagter & Nitsa Zuppas

**Findings of Approval**  
**Conditional Use Permit Application No. 2002-0122**  
**Mark Wagter & Nitsa Zuppas (Applicants/Owners)**  
Request to Convert Two Commercial/Industrial Buildings  
Multi-family Residences on the First Floor and  
Variance to Allow Vehicles to Back Out  
of the Garage Onto "B" Street  
628 B Street

**General**

- A. The approval of Conditional Use Permit Application No. 2002-0122 and Variance Application No. 2002-0291, as conditioned, will have no significant impact on the environment, cumulative or otherwise. The project reflects the City's independent judgment, and the project is categorically exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15303, of the CEQA Guidelines (*New Construction or Conversion of Small Structures*).

**Conditional Use Permit**

- B. The proposed project will provide an opportunity for homeownership of transit oriented units which is desirable for the public convenience and welfare;
- C. The proposed units will not impair the character and integrity of the zoning district and surrounding area in that the residential character of the "B" Street Streetcar Special Design District will be maintained and the rehabilitation of the property will be an enhancement to the downtown;
- D. The proposed units will not be detrimental to the public health, safety, or general welfare in that the proposal will meet all requirements of all applicable Zoning, Building and Fire codes and conditions of approval require that the property be maintained in a litter-free, graffiti-free condition, with no outdoor storage; and design measures shall be incorporated to mitigate noise and vibration.
- E. The proposal is compatible with the policies and strategies of the General Policies Plan, the Downtown Hayward Design Plan and the Mark's Historic Rehabilitation District in that the site will retain the character of the Historic District and Downtown.



**Findings of Denial**  
**Variance Application No. PL-2002-0291**  
**Mark Wagter & Nitsa Zuppas (Applicants/Owners)**  
Request to Convert Two Commercial/Industrial Buildings  
Multi-family Residences on the First Floor and  
Variance to Allow Vehicles to Back Out  
of the Garage Onto "B" Street  
628 B Street

- A. There are no special circumstances applicable to the property including size, shape, topography, location, or surroundings, or other physical constraints. The property is well suited for multiple-family development, but the sitting building location makes it infeasible to provide a vehicle turn-around thereby allowing for a potential unsafe situation if a vehicle is permitted to back into "B" Street.
- B. Strict application of the Zoning Ordinance does not deprive such property of privileges enjoyed by other property in the vicinity under the same zoning classification. Single-Family Residential properties fronting "B" Street have garages facing the street with no turnaround and backing onto "B" Street is permitted. However, backing onto "B" Street, over the right-of-way from the multi-family residential and commercial properties are not permitted because of the potential unsafe situation.
- C. The variance would constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated in that other commercial properties have provisions to allow vehicles to enter "B" Street without backing over the right-of-way.

**CONDITIONS OF APPROVAL**  
**Conditional Use Permit Application No. 2002-0122**  
**Mark Wagter & Nitsa Zuppas (Applicants/Owners)**  
Request to Convert Two Commercial/Industrial Buildings  
Multi-family Residences on the First Floor and  
Variance to Allow Vehicles to Back Out  
of the Garage Onto "B" Street  
628 "B" Street

**General:**

1. Conditional Use Permit Application No. PL-2002-0122 and Variance Application No. PL-2002-0291 is approved subject to the conditions listed below. This permit becomes void **one year** after the effective date of approval, unless prior to that time a building permit application has been accepted for processing by the Building Official, or a time extension of this application is approved. A request for a one-year extension, approval of which is not guaranteed, must be submitted to the Planning Division **15 days** prior to the above date.
2. The permittee shall assume the defense of and shall pay on behalf of and hold harmless the City, its officers, employees, volunteers and agents from and against any or all loss, liability, expense, claim costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance and action of this permit.
3. Any proposal for alterations to the proposed site plan and/or design, which does not require a variance to any zoning code, must be approved by the Planning Director prior to implementation.
4. Prior to final inspection/occupancy, all improvements and conditions of approval shall be completed to the satisfaction of the Planning Director.
5. Violation of conditions is cause for revocation of this permit, subject to a public hearing before the duly authorized reviewing body.

**Planning**

6. Replace the chainlink fence with a 10-foot high masonry wall on the east property line and replace the chainlink fence on the west property line with a 6-foot redwood fence that will decrease to 3 feet, 10 feet from the front property line. Plans shall be submitted for the review and approval of the Planning Director.
7. Submit elevations of a trash/recyclables enclosure. Size, location and design, shall be to the satisfaction of the City of Hayward Solid Waste Manager and Planning Director.

7. Submit elevations of a trash/recyclables enclosure. Size, location and design, shall be to the satisfaction of the City of Hayward Solid Waste Manager and Planning Director.
8. Utility meters shall be screened while allowing sufficient reader access. The Planning Director shall approve the design of the meter screen.
9. The property shall be maintained graffiti free, free of outdoor storage and the structures and fences shall be kept in good condition.
10. The façade of the front building shall be modified to include a metal entry cover and purlins that match that of those on the rear building.
11. The entry covers on the rear building shall be increased in size to provide more protection from the weather.
12. The front façade of the front building shall be redesigned to include design features that break-up the flat and plain façade. These features shall include awning projections, tile or additional framing around windows and windowsills.
13. The designated garage shall be redesigned as a storefront for commercial and/or office uses or shall be incorporated into proposed live/work spaces. The design is to be revised for the approval of the Planning Director.
14. The balconies shall be metal. The Planning Director shall approve the design.
15. Prior to issuance of a building permit, a condominium map shall be filed with the California Department of Real Estate creating four condominium units. The applicant shall provide the City with the recorded documents reflecting the formation of a homeowners association and the creation of Conditions, Covenants & Restrictions (CC&Rs)
16. Prior to the sale of any unit, the applicant shall create a Homeowners Association and shall record the CC&R's. The CC&R's shall be subject to the review and approval of the City Attorney prior to recordation. The Homeowner Association shall be responsible for implementing all storm water measures and the maintenance of all private driveway, private utilities, and other common areas and facilities on the site, including all landscaping.
17. Any appropriate historical artifacts unearthed on the site in connection with the construction of the proposed project shall be offered to the Hayward Area Historical Society at no charge.
18. Mechanical equipment, such as air conditioners, shall be prohibited on the roof of any building unless screened.

## **Fire Department**

19. All buildings shall have individual address numbers posted so as to be visible from the street. Address numbers shall be a minimum of 6-inches.
20. Upon further Fire Department review of the revised plans, additional conditions may be required to be met prior to the issuance of a building permit.

## **Solid Waste**

21. At building permit issuance, a Construction & Demolition Debris Recycling Statement & Summary Report is required to be filed with the Solid Waste Division, Public Works Department. All construction debris is required to be recycled.

## **Utilities**

22. The existing 5/8" water meter is inadequate for the proposed conversion. **Before Granting Occupancy**, City of Hayward crews, at applicants' expense, shall upgrade water services. The application for water service shall be presented to the City of Hayward Inspector. Water and Sewer service is available subject to standard conditions and fees in effect at time of application. Allow 4 to 6 weeks from time of application for the installation of water service.
23. Submit Gallon Per Minute Demand on plans to determine proper meter size for residential water service.
24. Show on revised plans, location of proposed water meters. The water meters are to be located two feet from top of driveway flare as per City of Hayward Standard Details 213 through 218. Water meters to be located a minimum of 6 feet from sanitary sewer lateral as per State Health Code.
25. Revised plans shall be submitted showing the following:
  - a. Provide keys/access code/automatic gate opener to utilities for all meters enclosed by a fence/gate as per Hayward Municipal Code 11-2.02.1.
  - b. **Only Water Distribution Personnel** shall perform operation of valves on the Hayward Water System.

## **Police**

26. If garages are approved, security lighting shall be placed over the garages. The light fixtures shall be decorative, shall match the light fixtures found throughout the project, and shall be approved by the Planning Director.
27. The front door of each unit shall be equipped with a 180-degree security viewfinder.

## **Landscaping:**

28. Prior to the issuance of the building permit, detailed landscape renovation plans shall be prepared by a licensed landscape architect and submitted for review and approval by the City. Landscape Architect. The plans shall comply with the City's *Water Efficient Landscape Ordinance*. Plans shall include the following:
- a. All mature trees located on the west property line that are to be preserved and maintained. All existing trees that are indicated to remain, as indicated on the approved preliminary landscape plan, are not to be removed during the construction phase of this project.
  - b. All plants that have died back or are dead shall be replaced.
  - c. Vines and shrubs located on the outside of the wall adjacent to the railroad tracts.
  - d. The automatic irrigation system shall be operational and provide 100 percent coverage prior to approval of the landscape improvements.
29. Landscaping and trees shall be installed prior to occupancy of the Phase 1, unless otherwise approved by the City's Landscape Architect.
30. Landscaping shall be maintained in a healthy, weed-free condition at all times. The owner's representative shall inspect the landscaping on a monthly basis and any dead or dying plants (plants that exhibit over 30-percent die-back) shall be replaced within ten days of the inspection. Trees shall not be severely pruned, topped or pollarded. Any trees that are pruned in this manner shall be replaced with a tree species selected by, and size determined by the City Landscape Architect, within the timeframe established by the City and pursuant to Municipal Code.
31. A hose bib shall be provided in multi-purpose/courtyard area.
32. Prior to certificates of occupancy, the required park dedication in-lieu fee shall be paid to the City. Per the City's Parkland Dedication Ordinance, the amount of the fee shall be in accordance with the fee schedule in effect at the time of issuance of the building permits.

#### **Construction Activities**

33. All construction and demolition debris waste shall be recycled. Applicant is required to submit a Construction and Demolition Debris Recycling Statement and Summary Report.
34. The applicant shall submit a construction Best Management Practice (BMP) program for review and approval by the City prior to the issuance of any building permits. The general contractor and all subcontractors and suppliers of material and equipment shall implement these BMP's. Construction site cleanup and control of construction debris shall also be addressed in this program. The applicant is responsible for ensuring that all contractors are aware of all storm water quality measures and ensure that measures are implemented. Failure to comply with the approved construction BMP's will result in the issuance of correction notices, citations or a project stop work order.
35. The project plans shall include storm water measures for the operation and maintenance of the project for the review and approval of the City Engineer. The project plans shall

identify BMP's appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff facilities. The project plan shall also include erosion control measures to prevent soil, dirt and debris from entering the storm drain system, in accordance with the regulations outlined in the ABAG Erosion & Sediment Control Handbook.

36. Construction equipment shall be properly muffled, and unnecessary idling shall be prohibited.
37. Stationary noise-generating construction equipment, such as compressors, shall be located as far as practical from occupied homes.
38. The developer shall provide the Planning Director with the name and telephone number of the developer or the developer's representative who may be contacted during the construction phase regarding neighborhood complaints or concerns.